

indicating that he is entitled to request access to aircraft or free transportation and signed by the Chairman, National Transportation Safety Board, the Administrator of the Federal Aviation Administration, or the Director, Weather Bureau, or any official on their staff they may designate, and signed also by the person presenting such credentials or certificate.

(b) The person to be transported shall deliver to the appropriate agents of the air carrier, in duplicate, a properly executed "Request for Access to Aircraft or Free Transportation" (U.S. Government Standard Form No. 160).

(c) When free transportation is requested pursuant to § 224.2 involving more than one free trip within a calendar year by the same individual on the same carrier, the person to be transported shall, at the time of performance of each such additional trip, present to the appropriate agent of the air carrier a statement in writing by the Administrator of the Federal Aviation Administration, or the Director, Weather Bureau, or any official on their staff they may designate, that the additional trip or trips by the person named, between the points designated and on the type of aircraft specified therein, is solely for the purpose specified in § 224.2 and is essential to the effective performance of Federal Aviation Administration or Weather Bureau functions.

(d) The air carrier shall insert the tariff value of the transportation to be furnished on each "Request for Access to Aircraft or Free Transportation," shall retain one copy of each such request, and on or before the 10th day of each month each air carrier shall forward one copy of all such requests received by it during the second preceding calendar month to the Bureau of Economics, Civil Aeronautics Board, Washington, D.C. 20428.

[ER-485, 32 F.R. 5546, Apr. 5, 1967, as amended by ER-495, 32 F.R. 7901, June 1, 1967]

#### § 224.4 Responsibility of the Federal Aviation Administration, the National Transportation Safety Board, and the Weather Bureau.

The Federal Aviation Administration, the National Transportation Safety Board, and the Weather Bureau shall be responsible for:

(a) The issuance of proper credentials or certificates to personnel eligible hereunder; and

(b) The promulgation of such internal rules as may be required to obtain compliance by such personnel with this part.

### PART 225—TARIFFS OF CERTAIN CERTIFICATED AIRLINES; TRADE AGREEMENTS

Sec.	Definitions.
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**AUTHORITY:** The provisions of this Part 225 issued under secs. 204, 403, 404, 416, 72 Stat. 743; 49 U.S.C. 1324, 1373, 1374, 1386.

**SOURCE:** The provisions of this Part 225 contained in ER-379, 28 F.R. 3718, Apr. 17, 1963, unless otherwise noted.

#### § 225.1 Definitions.

For the purposes of this part:

(a) "Airline" means:

(1) Any air carrier furnishing local or feeder type transportation (other than by helicopter) within the 48 contiguous states of the United States, consisting of the carriage of persons, property, and mail under a certificate of public convenience and necessity issued by the Board.

(2) Any trunkline air carrier receiving subsidy for services over part of its certificated routes.

(3) Any air carrier furnishing air transportation, between points within the State of Hawaii, consisting of the carriage of persons, property, and mail under a certificate of public convenience and necessity issued by the Board.

(4) Any subsidized air carrier furnishing air transportation between points in the State of Alaska (but not between points on a route between Alaska and other States of the United States unless the air carrier is also authorized to serve such points on a route located wholly

within Alaska), consisting of the carriage of passengers, property, and mail under a certificate of public convenience and necessity issued by the Board.

(5) [Reserved]

(6) Any certificated air carrier authorized to furnish scheduled air transportation in the metropolitan area of Los Angeles, San Francisco-Oakland, Chicago, or New York and which performs such air transportation solely with other than fixed-wing aircraft.

(b) "Trade agreements" shall mean an agreement whereby air transportation is to be exchanged for services or goods for advertising purposes, and which agreement conforms to the requirements of § 225.5.

(c) "Services or goods for advertising purposes" means newspaper or magazine display advertising, radio and television advertising, bus and streetcar advertising and other forms of media advertising, billboards and other outdoor advertising and advertising promotional displays. It also includes the services normally performed by an advertising agency and the services of such agency or any other person acting as an advertising agent or broker. It shall not include feature or news stories, public relations expense or other forms of advertising that are not clearly identifiable as paid advertisements of the carrier.

(d) "Air transportation" means air transportation provided by an airline over its own authorized routes under applicable individual or joint tariffs on file with the Board.

[ER-379, 28 F.R. 3718, Apr. 17, 1963, as amended by ER-412, 29 F.R. 11744, Aug. 18, 1964; ER-453, 31 F.R. 2928, Feb. 19, 1966; ER-471, 31 F.R. 10357, Aug. 2, 1966]

#### § 225.2 Filing of notice of trade agreement and cancellation of such agreement.

(a) *Notice of trade agreement.* Any airline may at any time prior to December 18, 1968, file with the Board a notice of its intention to furnish air transportation in exchange for services or goods for advertising purposes. Every such notice shall be accompanied by an executed counterpart of a written agreement, containing all the terms of the agreement between the parties thereto, duly entered into by such air carrier with the supplier, and by an affidavit by the chief financial officer or other responsible officer of the airline having knowledge of the transaction in the form

required by § 225.4. Every such notice shall be filed at least 14 days prior to the effective date specified in the trade agreement. Within the meaning of this part, air transportation shall be deemed to be furnished when the passenger is actually enplaned.

(b) *Notice of cancellation of trade agreement.* An airline shall file with the Board a notice of cancellation of a trade agreement within 14 days after a trade agreement has been canceled.

[ER-379, 28 F.R. 3718, Apr. 17, 1963, as amended by ER-453, 31 F.R. 2928, Feb. 19, 1966]

#### § 225.3 Contents of notice of trade agreement.

Every notice filed with the Board pursuant to § 225.2 shall be conspicuously entitled "Notice Concerning Exchange of Air Transportation for Services or Goods," and shall contain the following information:

(a) The names and addresses of the contracting parties;

(b) A description of the services or goods and the amount and value thereof to be received by the airline pursuant to the trade agreement, together with a statement of the basis upon which such value was computed—all of which shall be set forth in such detail as to enable the Board to verify such value;

(c) The total value of the air transportation to be furnished under all trade agreements previously filed with the Board under this part;

(d) Such other information as will enable the Board to determine whether the trade agreement was solicited by the airline or the supplier and has been entered into for the purpose of enabling the airline to obtain advertising which it could not afford if it were required to pay cash but for which it would have been willing to pay cash; and

(e) A description of the arrangements and provisions which have been made by the airline to ensure that air transportation will not be furnished to anyone except the individuals identified or described in the agreement.

#### § 225.4 Affidavit by chief financial or other responsible officer of airline.

Every affidavit filed with the Board pursuant to § 225.2 shall state that the officer whose signature appears thereon is familiar with the circumstances and that in his opinion and to the best of his knowledge and belief; (a) the trade

agreement which it accompanies will be financially advantageous to the airline; (b) the services or goods to be received have an actual value to the airline equal to or in excess of the value of the air transportation to be furnished under the contract; and (c) the information contained in the notice is complete and correct.

**§ 225.5 Provisions of agreement.**

Each trade agreement entered into by an airline hereunder shall provide:

(a) That it shall become effective on a specified day, on or before January 1, 1969;

(b) That goods or services are to be supplied to the airline and the airline is to be required to furnish air transportation to the supplier during a specified period of time which shall not extend more than one year from the effective date of the trade agreement;

(c) That the airline shall not be obligated to furnish any air transportation under a trade agreement unless such transportation is requested and furnished within the period specified therein. Any such agreement may provide, however, that in the event the agreement is terminated by the Board pursuant to § 225.7, the airline shall pay in cash (except to the extent the order of the Board terminating such agreement may permit all or any part, as specified in the order, of such excess to be paid in air transportation) any excess value of goods or services received thereunder prior to such termination over the value of the air transportation it has furnished under the agreement prior thereto;

(d) That in the event the air carrier at the time of expiration of the period during which goods or services are to be supplied to it, or at the time of termination of the agreement pursuant to § 225.7, has furnished air transportation having a value in excess of the value of the services or goods which it has received prior to such termination or the end of such period, such excess shall become payable, within not more than 90 days after such expiration or termination, to the airline in cash, goods, or services, or any combination thereof, as the parties may agree either in the original agreement or upon such expiration or termination (except to the extent any order of the Board terminating the agreement may require that all or any part, as specified in the order, of such

excess shall be payable only in cash or within a different period);

(e) That, except to the extent provided in paragraph (d) and the last sentence of paragraph (c) of this section, the agreement shall immediately be terminated if at any time the Board shall issue an order to that effect pursuant to § 225.7;

(f) That the air transportation to be furnished pursuant to the agreement shall be used only by the supplier, his officers, directors, employees and their immediate families;

(g) That such air transportation shall not be transferable and shall be used only by the individuals identified or described in the agreement;

(h) That the published individual tariff rates, fares, and charges of the airline applicable at the time air transportation is furnished shall be used in determining the value of such transportation;

(i) That such agreement will be terminated by the air carrier immediately upon its discovery that air transportation issued under the agreement has been used by an individual not identified or described in the agreement, any excess in values resulting from transactions under the agreement prior to such termination to be settled as provided in paragraph (d) and the last sentence of paragraph (c) of this section;

(j) That the total value of air transportation furnished pursuant to the agreement shall not exceed a fixed amount stated therein;

(k) That the supplier will furnish to the Board such complete and accurate information as it or the airline shall reasonably request concerning the prices for, the value of, and the nature of the services or goods for advertising purposes only supplied or to be supplied to the airline, and the prices which it would customarily charge to others for similar services or goods;

(l) That trunkline air carriers defined in § 225.1(a)(2) shall exchange air transportation only over those certificated routes on which they receive subsidy and only for services or goods for advertising purposes which advertise air transportation over such subsidized routes;

(m) That certificated air carriers defined in § 225.1(a)(4) shall exchange only air transportation conducted between points within the State of Alaska

(but not between points on a route between Alaska and other States of the United States unless the air carrier is also authorized to serve such points on a route located wholly within Alaska) for advertising services or goods advertising only air transportation between such points within the State of Alaska; and

(n) That certificated air carriers defined in § 225.1(a)(6) shall exchange only scheduled air transportation conducted with other than fixed-wing aircraft for advertising services or goods advertising only scheduled air transportation by other than fixed-wing aircraft.

[ER-379, 28 F.R. 3718, Apr. 17, 1963, as amended, ER-412, 29 F.R. 11745, Aug. 18, 1964; ER-458, 31 F.R. 2928, Feb. 19, 1966]

#### § 225.6 Limitation on total value of trade agreements.

The total value of trade agreements entered into by any single airline in accordance with the provisions of this part shall be not more than:

(a) \$200,000 in the aggregate each year for those airlines identified under § 225.1(a) (1), (2) and (3);

(b) \$20,000 in the aggregate each year for those airlines identified under § 225.1(a) (4);

(c) \$100,000 in the aggregate each year for those airlines identified under § 225.1(a) (6).

[ER-412, 29 F.R. 11745, Aug. 18, 1964, as amended by ER-463, 31 F.R. 7508, May 25, 1966]

#### § 225.7 Suspension or termination of trade agreements by the Board.

If at any time after the filing of a trade agreement in accordance with § 225.2 the Board shall have doubt that the transaction is in the public interest, the Board may serve upon the airline an order directing it to show cause why such trade agreement should not be terminated. Upon service of such order performance of the agreement shall, unless otherwise provided in the order, immediately be suspended, and shall not thereafter be commenced or resumed unless and until the Board shall, after hearing upon such order, or other final determination of the matter, permit performance of the trade agreement to be commenced or resumed.

#### § 225.8 Exemption from tariff and other requirements.

With respect to air transportation furnished in accordance with the pro-

visions of this part, every airline shall, in connection with the making or performance of trade agreements, be exempt from the provisions of Part 221 of this subchapter and any other regulations hereafter adopted by the Board insofar as any such regulation shall require tariffs to show classifications, rules, regulations, practices, and services, and from the provisions of section 403(b) of the Act only insofar as such provisions would otherwise require that such airline shall not charge or demand or collect or receive a greater or different compensation for the air transportation which it is to furnish pursuant to a trade agreement, or for any service in connection therewith, than the rates, fares and charges specified in its currently effective tariffs.

#### § 225.9 Furnishing of transportation.

(a) Prior to the effective date of any trade agreement entered into under this part, the supplier shall furnish the airline with a list of the individuals who are to use the air transportation to be furnished; provided that changes in the identity of the individuals who are to use the air transportation or other revisions in the list may be made by the supplier after the effective date of the agreement upon prior written notice to the airline;

(b) The airline shall issue to each of the individuals listed an identification card which clearly identifies the individual and states thereon that he is entitled to use transportation furnished pursuant to the named trade agreement during a stated period;

(c) Tickets covering transportation furnished under a trade agreement shall (1) be issued upon the demand of the supplier only; (2) be clearly marked "Non-Transferable"; and (3) be used only by an individual who has previously been issued an identification card described in paragraph (b) of this section;

(d) The airline shall make such other arrangements and provisions as are necessary to ensure that air transportation furnished will not be used by anyone except the individuals identified or described in the agreement; and

(e) No transportation shall be furnished under a trade agreement except in accordance with a ticket issued therefor.

§ 225.10 Accounts and records.

(a) Each airline availing itself of the provisions of this part shall maintain a record of each trade agreement entered into, which record shall be filed in such manner as to be accessible and convenient for examination, and shall contain the following information: (1) The date received and the amount of goods or services supplied; (2) the names and addresses of individuals to whom identification cards were issued under the trade agreement; and (3) the date furnished and the amount of the air transportation furnished under the trade agreement. All correspondence or memorandums relating to trade agreements shall be retained and made a part of the carrier's records; and

(b) In accounting for and reporting financial and traffic data in accordance with Part 241 of this subchapter (the Board's Economic Regulations):

(1) Advertising received in accordance with a trade agreement shall be billed and recorded in the carrier's expense accounts at the going market rate;

(2) Air transportation services provided in accordance with a trade agreement shall be billed and recorded in the carrier's accounts in accordance with its published tariffs. Such amounts shall be carried in the normal revenue account; and

(3) Upon termination of a trade agreement, a reduction shall be made in the carrier's expense accounts to the extent, if any, that the value of advertising services received shall exceed the value of transportation services performed in return therefor, unless such balance is settled in cash, goods, or services of equivalent value.

§ 225.11 Value of air transportation.

For the purposes of this part, the published tariff rates applicable at the time air transportation is furnished pursuant to a trade agreement shall be used in determining the value thereof.

§ 225.12 Value of advertising goods and services.

For the purposes of this part, advertising goods and services shall be valued at the going market price at the time such goods or services are furnished.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**PART 227—TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS: REDUCED RATES FOR FURLOUGHED MILITARY PERSONNEL AND IMMEDIATE FAMILIES OF MILITARY PERSONNEL<sup>1</sup>**

Sec.

227.0 Applicability.

227.1 Definitions.

227.2 Conditions governing the furnishing of reduced-rate transportation.

227.3 Tariffs to be filed.

227.4 Identification.

AUTHORITY: The provisions of this Part 227 issued under secs. 204, 403, 72 Stat. 743, 758; 49 U.S.C. 1324, 1373.

§ 227.0 Applicability.

This part applies to reduced rate transportation furnished to individually ticketed passengers traveling singly or in groups in overseas or foreign air transportation.

[ER-346, 27 F.R. 466, Jan. 17, 1962]

§ 227.1 Definitions.

For the purpose of this part:

(a) "Furloughed military personnel" means all military personnel of the armed forces of the United States, which are: (1) On an active duty status, (2) stationed outside the continental United States and traveling thereto or domiciled in one of its territories or possessions and traveling thereto, and (3) traveling at their own expense while on official furlough, leave, pass or other authorized absence from duty.

(b) "Reduced rate transportation" means the carriage by a carrier subject to the provisions of this part of any furloughed military personnel or members of the immediate family of military personnel on active duty status and stationed outside the continental United States, for compensation specified in the applicable tariff of such a carrier relating thereto, which compensation is less than that specified in other tariffs of the carrier which would otherwise be applicable.

(c) "Open-jaw trip" shall mean travel which is essentially of a round-trip nature, but the outward point of departure and inward point of arrival and/or outward point of arrival and inward point of departure of which are not the same.

<sup>1</sup> 27 F.R. 466, Jan. 17, 1962.